

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

JUL 22 2014

LAVERN BERRYHILL,
Plaintiff,

vs.

SCOTT PRUITT, Oklahoma Attorney
General,
Defendant.

CARMELITA REEDER SHINN, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY Ush, DEPUTY

No. CIV-14-605-W

ORDER

On June 18, 2014, United States Magistrate Judge Charles B. Goodwin issued a Report and Recommendation in this matter and recommended that plaintiff Lavern Berryhill be denied leave to proceed in forma pauperis and that this matter be dismissed unless Berryhill paid the filing fee in full by a designated date or showed good cause for his failure to do so. Berryhill was advised of his right to object, see Doc. 6 at 3, and the matter now comes before the Court on Berryhill's Response to Magistrate's Report and Recommendation. See Doc. 7.

Upon de novo review, the Court concurs with Magistrate Judge Goodwin's suggested disposition of Berryhill's request for leave to proceed without prepayment of the filing fee and finds in the absence of allegations in Berryhill's pleading that he "is under imminent danger of serious physical injury," 28 U.S.C. § 1915(g),¹ that Berryhill is

¹Section 1915(g) is "the 'three strikes' provision of the in forma pauperis statute, as amended by the Prison Litigation Reform Act of 1995." Jennings v. Natrona County Detention Center Medical Facility, 175 F.3d 775, 778 (10th Cir. 1999). It provides in pertinent part:

In no event shall a prisoner bring a civil action . . . under this section if the prisoner has, on 3 or more prior occasions, while incarcerated . . . in any facility, brought an action . . . in a court of the United States that was dismissed on the grounds that it

prevented from proceeding in forma pauperis in this matter. E.g., Jennings v. Natrona County Detention Center Medical Facility, 175 F.3d 775, 778 (10th Cir. 1999).

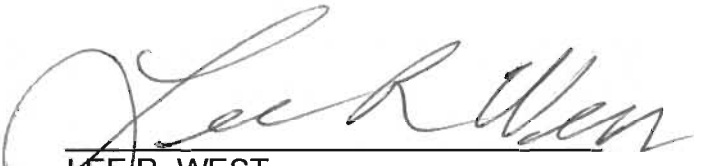
Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 6] issued on June 18, 2014;
(2) DENIES Berryhill's Motion for Leave to Proceed in Forma Pauperis [Doc. 2] file-stamped June 11, 2014;

(3) ORDERS Berryhill to pay the filing fee of \$400.00 in full to the Clerk of the Court on or before August 13, 2014, or show good cause by that date for his failure to do so; and

(4) ADVISES Berryhill that if the filing fee is not paid in full by the designated date or good cause has not been shown that this matter will be dismissed without prejudice.

ENTERED this 22nd day of July, 2014.


LEE R. WEST
UNITED STATES DISTRICT JUDGE

is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). "This provision requires so-called "frequent filer" prisoners to prepay the entire filing fee before federal courts may consider their civil actions" Jennings, 175 F.3d at 778 (quoting White v. Colorado, 157 F.3d 1226, 1232 (10th Cir. 1998)).